

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

James B. Skelton, )  
                        ) C/A No. 3:18-2011-MBS  
Plaintiff,         )  
                        )  
vs.                 )  
                        ) **OPINION AND ORDER**  
Henry McMaster, Governor, )  
                        )  
Defendant.         )  
\_\_\_\_\_)

Plaintiff James B. Skelton, proceeding pro se and in forma pauperis, filed a complaint on July 23, 2018, alleging that the South Carolina probate laws are unconstitutional and should be abolished. See 42 U.S.C. § 1983. In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Jacquelyn D. Austin for pretrial handling.

The Magistrate Judge reviewed the complaint pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B). The Magistrate Judge determined that Plaintiff failed to allege a plausible claim. Accordingly, the Magistrate Judge issued a Report and Recommendation on July 31, 2018, in which she recommended that the within action be summarily dismissed without prejudice and without issuance and service of process. Plaintiff filed no objections to the Report and Recommendation. On August 27, 2018, the court issued an order adopting the Report and Recommendation and summarily dismissing the action without prejudice.

Plaintiff filed a notice of appeal on September 10, 2018. On March 11, 2011, the Court of Appeals for the Fourth Circuit issued an opinion directing the court to allow Plaintiff to amend his complaint. The Fourth Circuit issued its mandate and judgment on April 2, 2019.

Accordingly, as instructed by the Fourth Circuit, the court vacates its August 27, 2018 order.

Plaintiff is granted leave to amend his complaint no later than May 31, 2019. Should Plaintiff fail to amend his complaint, the court will again enter an order summarily dismissing the complaint.

**IT IS SO ORDERED.**

/s/ Margaret B. Seymour  
Senior United States District Judge

Columbia, South Carolina

May 9, 2019